

### REMARKS

The applicant has carefully reviewed the application in light of the Office Action dated December 13, 2007. Applicants amend claim 68. The amendments to the claims have only been done to expedite the prosecution.

#### Allowable Subject Matter

Applicants wish to express their appreciation to the Examiner for allowing Claims 25, 27-32, 50-51 and 53-57.

#### Claim Rejections – 35 U.S.C. §103

The Examiner rejects Claims 68, 70-74, 76 and 77 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,072,380 issued to Randelman et al., (hereinafter “*Randelman*”). The Examiner also rejects Claim 75 under 35 U.S.C. §103(a) as being unpatentable over *Randelman*, as applied to Claim 68 above, and further in view of U.S. Patent No. 4,263,945 issued to Van Ness (hereinafter “*Van Ness*”). Applicant respectfully traverses these rejections for the comments set forth below.

Amended claim 68 recites, in part, “emitting radio frequency signals from a short-range antenna of a first dispenser of a plurality of dispensers such that an electromagnetic field of a predetermined operable range is created only proximate a surface of the first dispenser, and the dispenser can wirelessly communicate with hand-held transponders within the operable range independent electromagnetic fields generated by other dispensers in the plurality of dispensers, wherein the electromagnetic fields are emitted over a predetermined operable range adjacent respective dispensers such that each magnetic field does not overlap the operable range of another said electromagnetic field corresponding to a different dispenser.” In particular, “the electromagnetic fields are emitted over a predetermined operable range adjacent respective dispensers such that each magnetic field does not overlap the operable range of another said electromagnetic field corresponding to a different dispenser.” In contrast, *Randelman* merely teaches that the antenna 2 is embedded in the service station 3 such as in the roadway or

overhead of the service station 3, **not** that the service station 3 is configured with multiple antennas 2 associated with different dispensers such that operable ranges of electromagnetic fields do not overlap. Col. 2, lines 30-34; Claims 5-6. In fact, *Randelman* requires that the antenna 2 is embedded in the service station 3 to determine the direction of the vehicle<sup>1</sup> as well as if the vehicle has stopped. Col. 2, lines 51-54; Col. 3, line 56 to Col. 4, line 1; Figure 3. Therefore, *Randelman* fails to teach or suggest a plurality of dispensers with operable ranges that do not overlap.

In addition, *Randelman* fails to teach or suggest identifying individual customer accounts and, in fact, merely teaches identifying vehicles irrespective of the driver for fleet billing. Col. 3, lines 13-29. In particular, *Randelman* states, "Whereas a credit card or debit card identifies a particular individual customer, the present invention is a system which identifies a particular vehicle ***irrespective of the vehicle operator***." Col. 3, lines 22-25. In other words, *Randelman* specifically teaches away from identifying customers accounts as claimed claim in independent claim 68. Thus, *Randelman* would have no need for electromagnetic fields adjacent respective dispensers that do not overlap fields from other dispensers but such configurations enable charging individual customer accounts for fuel dispensed at a specific dispenser by the specific customer. "A prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention." *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 U.S.P.Q. 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984). (M.P.E.P. § 2141.02). Accordingly, Applicants respectfully request reconsideration and allowance of claim 68 and its dependents.

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<sup>1</sup> In addition, *Randelman* teaches that a second antenna is required to determine whether the vehicle is entering or exiting the service area. Col. 2, lines 51-54; Figure 2.

CONCLUSION

Applicants have now made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicants respectfully request full allowance of all Claims.

If the present application is not allowed and/or if one or more of the rejections is maintained, Applicants hereby request a telephone conference with the Examiner and further request that the Examiner contact the undersigned attorney to schedule the telephone conference.

Applicants submit herewith a separate Petition for Extension of Time for responding to the Office Action for two (2) months.

The Extension of Time filing fee in the amount of **\$460** is being paid concurrently herewith on the Electronic Filing System (EFS) by way of Deposit Account authorization. Please apply any other charges or credits to Deposit Account No. 06-1050.

No other fees are believed to be due. However, should there be a fee discrepancy, please apply any deficiencies or any other required fees or any credits to deposit account 06-1050, referencing the attorney docket number shown above.

Respectfully submitted,

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